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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/767,431	01/22/2001	Charles L. Jones	US20000181	9566
173 7590 03/17/2008 WHIRLPOOL PATENTS COMPANY - MD 0750 500 RENAISSANCE DRIVE - SUITE 102 ST. JOSEPH, MI 49085				
EXAMINER				
VIG, NARESH				
ART UNIT		PAPER NUMBER		
3629				
MAIL DATE		DELIVERY MODE		
03/17/2008		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

**Advisory Action
Before the Filing of an Appeal Brief**

Application No.

09/767,431

Applicant(s)

JONES, CHARLES L.

Examiner

NARESH VIG

Art Unit

3629

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 08 February 2008 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☐ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
 b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
 Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☒ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
 (a) ☒ They raise new issues that would require further consideration and/or search (see NOTE below);
 (b) ☐ They raise the issue of new matter (see NOTE below);
 (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
 (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
 5. ☐ Applicant's reply has overcome the following rejection(s): _____.
 6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
 7. ☒ For purposes of appeal, the proposed amendment(s): a) ☒ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
 The status of the claim(s) is (or will be) as follows:
 Claim(s) allowed: _____.
 Claim(s) objected to: _____.
 Claim(s) rejected: 1-3, 7-13 and 15-19.
 Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
 9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
 10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☐ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: _____.
 12. ☐ Note the attached Information *Disclosure Statement(s)*. (PTO/SB/08) Paper No(s). _____
 13. ☐ Other: _____.

/Naresh Vig/
Primary Examiner, Art Unit 3629

Applicant has added the limitation
making a design of a product appearance in response to the visual characteristics of the desired brand
making the product using the design
which would require further consideration and/or search

In response to applicant's argument that cited references do not have any statement which states creating any special design for the appliances themselves.

However, the picture itself on page 4 of cited reference clearly shows a series of appliances made under the Kitchen Aid series of products by Whirlpool Corporation. Also applicant is separating the cited references to make their arguments

In response to applicant's argument that cited reference Abelow envisions that the user would provide feedback when they have problem or when they have unmet need, which is different than the claimed invention.

Once again, applicant is separating references to make their argument. Whirlpool clearly shows making series of appliances with maintaining product personalities. Abelow teaches that a product design can be made by taking customer feedback and desires to improve the product, and, customer's unmet desires can be taken into consideration when designing series of products. For example, Kitchen Aid family of matching refrigerator, dish washer, range, hood etc.

In response to applicant's argument that cited reference Abelow does not provide any such teaching for at least one of a washer, dryer, refrigerator, freezer, oven, range, counter top appliance, cook top, grill, hood, dishwasher and microwave oven. The Whirlpool Corporation publication does not teach or suggest designing any of these products, but rather utilizes commercially available versions of the products and merely arranges them within a kitchen setting.

However, applicant is not considering the Whirlpool reference completely. As responded to earlier, cited reference Whirlpool clearly teaches that Kitchen Aid had series of appliances with maintaining product design and personality.